BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

THOMAS L. SPADE, Claimant, v. STATE OF IDAHO, INDUSTRIAL SPECIAL INDEMNITY FUND, Defendant.	)	**IC 99-035789** **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** Filed December 29, 2004

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Robert D. Barclay, who conducted a hearing in Coeur d'Alene (CDA) commencing on March 9, 2004, and concluding on July 26, 2004. Claimant, Thomas L. Spade, was present in person and represented by Thomas B. Amberson of CDA. Defendant State of Idaho, Industrial Special Indemnity Fund (ISIF), was represented by Thomas W. Callery of Lewiston. The parties presented oral and documentary evidence. This matter was then continued for the submission of briefs and subsequently came under advisement on October 29, 2004. There were no post-hearing depositions.

BACKGROUND

Prior to the hearing in this matter, Claimant settled his claim for compensation with Defendant Employer, McFarland Cascade Holdings, Inc., dba L. D. McFarland Company, Ltd., and

Defendant Surety, Wausau Underwriters Insurance Company, in a Lump Sum Settlement Agreement (LSSA). The LSSA was approved by the Commission on June 13, 2002. Employer and Surety were represented by E. Scott Harmon of Boise in that matter.

ISSUES

The noticed issues to be resolved as a result of the hearing are:

1. Whether Claimant is entitled to permanent total disability (PTD) in excess of permanent impairment;

2. Whether Claimant is entitled to permanent total disability pursuant to the "odd-lot" doctrine;

3. Whether ISIF is liable under Idaho Code § 72-332; and,

4. Apportionment under the *Carey* formula.

ARGUMENTS OF THE PARTIES

Claimant argues he is totally and permanently disabled pursuant to the "odd-lot" doctrine under all three prongs of the *Lethrud* test. First, that he attempted to work as a fireman, but was unable to continue due to his physical condition; second, that a work search by a vocational counselor on his behalf was unsuccessful; and third, that any effort to find suitable work would be futile. Claimant then argues ISIF has not rebutted his *prima facie* case for odd-lot status since he cannot physically perform the jobs identified by ISIF. He further argues ISIF is liable under Idaho Code § 72-332 because he had several pre-existing impairments, that the impairments were manifest, that they were a subjective hindrance to his employment, and that they combined with his low back industrial injury to result in total and permanent disability. Claimant also argues ISIF is liable for 87.8% of his PTD commencing March 23, 2001, and asks the Commission to order them to

immediately start paying him lifetime benefits.

ISIF counters Claimant has not demonstrated he is totally and permanently disabled since his medical impairment and non-medical factors do not total 100% and he has failed to show that he is an odd-lot. They point out he worked for some ten months as a fireman subsequent to his 1999 industrial injury, and that he has failed to present any evidence of a work search or that any such search would be futile. ISIF further argues any lumbosacral sprain Claimant suffered in 1999 could not have combined with his pre-existing impairments to render him totally disabled, thereby invoking ISIF liability under Idaho Code § 72-332, since he was medically released to perform medium work. They also argue medium work was available to Claimant, and that even considering the functional capacity examination (FCE) he had just before the hearing in this matter, he could still work eight hour days at sedentary-light work. ISIF asks the Commission to rule in its favor.

Claimant responds his low back injury occurred while working for Employer and that it constitutes a subsequent injury, that his poor physical condition and the residuals from his numerous industrial and non-industrial injuries prevent him from obtaining any gainful employment, and that the jobs identified by ISIF either do not exist in his labor market, or exceed his physical capacities. He argues he is totally and permanently disabled under the odd-lot doctrine, that ISIF is liable for 87.8% of his total disability, and that they should commence lifetime payments immediately.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant and Nancy J. Collins, Ph.D., taken at the hearing;
2. Claimant's Exhibits A through Z and a admitted at the hearing;
3. ISIF's Exhibits 1 through 21 admitted at the hearing; and,

4. The AMA *Guides to the Evaluation of Permanent Impairment*, Fifth Edition (AMA *Guides*) of the which the Referee takes notice.

After having fully considered all of the above evidence, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

FINDINGS OF FACT

1. At the time of the hearing, Claimant was 64 years old. He graduated from Sandpoint High School in 1958 and shortly thereafter enlisted in the U. S. Navy. While in high school he worked on a farm. During his four year enlistment, he received training as an aircraft engine mechanic working on reciprocating engines. After he was honorably discharged, Claimant returned to Sandpoint and began working in a grocery store, eventually advancing to store manager. Before becoming the manager, he had worked in all the store's departments except for the bakery. Claimant left the grocery business in 1976 to work for Employer at its Sandpoint facility. He was seeking higher wages and a retirement plan. Employer manufactures wood transmission poles for utility companies.

2. Claimant filled a variety of positions with Employer, including laborer, crane operator, quality control, chemical treatment engineer, and hazardous waste manager. His job changes represented advancements into positions of greater responsibility and pay. Employer closed the chemical treatment portion of its facility in 1998. Claimant was involved in the dismantlement and hazardous waste clean-up of that portion of the facility. Once the clean-up was completed, he returned to work in pole preparation as a laborer. The work involved the turning, pushing, and pulling of poles. He was laid-off on August 17, 1999, when the facility down-sized again and all but one operation, peeling bark off green poles, was eliminated. The peeled poles were now sent

elsewhere for further processing and treating. At the time of his lay-off, Claimant was being paid $14.44 per hour.

3. Claimant suffered several injuries while working for Employer; the ones relevant to a disability analysis are summarized below:

A. **Right upper extremity**. Claimant injured his right upper extremity in a 1988 fall off a truck loaded with poles during winter weather conditions. His right rotator cuff was surgically repaired; a torn right bicep tendon was treated conservatively. Claimant was given an 18% of the whole person permanent partial impairment (PPI) rating as a consequence of the fall.

B. **Left Knee**. Claimant injured his left knee in 1989 after slipping off a pole. Arthroscopic meniscectomies followed in 1991 and 1994. He received an 8% of the whole person PPI rating after the first procedure. Claimant's condition continued to deteriorate and he underwent a total knee replacement in 1996. No rating was given after the replacement [there was a LSSA], but under Table 17-33 of the AMA *Guides*, a total knee replacement with good results, as Claimant had, would equate to a 15% of the whole person PPI rating. This rating would encompass the earlier 8% rating.

C. **Left upper extremity**. Claimant injured his left shoulder in a 1994 fall. A ruptured left biceps tendon and shoulder impingement were treated conservatively. He received a 7% of the whole person PPI rating for the injuries.

D. **Hearing loss**. In 1998 Claimant filed a claim for work-related hearing loss. He was diagnosed with bilateral tinnitus and given a combined binaural hearing impairment of 8%. Under Table 11-3 of the AMA *Guides* this equates to a PPI rating of 3% of the whole person. Claimant does not use hearing aids.

E. **Low back**. A Form 1 was filled out on November 15, 1999, apparently listing an injury date of August 26, 1999. The form was signed by both Employer and Claimant. The date was apparently altered to July 26, 1999, and to August 1, 1999, and two Forms 1 were submitted.

Claimant initially sought care for his low back from his family physician in early November 1999, and was referred to Bret A. Dirks, M.D., for a neurological examination. A lumbar MRI showed degenerative disc disease and disc bulging at L4-5, and disc bulging at L5-S1. Dr. Dirks prescribed conservative care including medications and physical therapy. In a January 19, 2000, IME, Stephen R. Sears, M.D., opined Claimant was stable, that he had a 5% of the whole person PPI rating for his lumbosacral spine; that he could work, but was restricted to lifting 50 pounds [medium work], and that he could return to work in his prior job with Employer, as a Fire Chief, or as a retail store manager. Dr. Sears did not believe Claimant's low back condition was work related because Claimant did not describe an accident. He also indicated Claimant's medical records were incomplete. In a letter to Surety, Dr. Dirks indicated he agreed with Dr. Sears' findings and opinions.

4. An April 8, 1999, physical examination indicated Claimant had had chronic back pain since the time he fell and tore his right rotator cuff. The same examination found bilateral inguinal hernias which apparently did not bother Claimant. Other records dated June 1984 indicated Claimant had suffered from low back pain for most of his adult life up until that point, and had sought help from chiropractors on several occasions for the condition. Lumbar x-rays taken in June 1984 were read as negative. Repeat x-rays in October 1999, when compared to those taken in 1984, showed moderate lumbar spondylochondrotic changes.

5. Claimant received unemployment insurance benefits after he was laid-off by

Employer. He also received training as an auctioneer at a school in Montana as part of a NAFTA retraining plan for displaced workers. Claimant worked once as a paid auctioneer earning $100.00. He has also volunteered to conduct charity auctions on several occasions without pay. The dates of these volunteer efforts are unknown.

6. Claimant worked with Richard Hunter, a rehabilitation consultant at the Commission's Sandpoint office in early 2000. Consultant Hunter closed the case after Dr. Sears determined Claimant's low back condition was not industrially related, and Claimant decided to pursue Social Security disability rather than look for work. Before closing the case, he had submitted several job site evaluations (JSE) to several physicians who had treated Claimant. These JSEs were the ones Dr. Sears approved.

7. In a letter to Surety dated March 17, 2000, Dr. Dirks opined Claimant was fully disabled. In a chart note dated the same day, he further opined Claimant injured himself while working for Employer, and that surgery would not benefit him.

8. In a Residual Physical Functional Capacity Assessment (RPFCE) dated April 12, 2000, and a second RPFCE dated May 30, 2000, Claimant was found to be capable of medium work. The assessments were made by two physicians whose names cannot be completely discerned from their signatures. Other records indicate the two are Gene Profant, M.D., and Jane McEwan, M.D. One of the physicians noted, based on information provided by a surety representative, that Claimant was seeking medical clearance to apply for work as a Fire Chief. The RPFCEs were conducted on behalf of the Social Security Administration.

9. Claimant went to work for the Northside Fire District, a rural volunteer fire district north of Sandpoint, as a fireman in August 2000. Prior to this he had been a volunteer fireman and

maintenance man with the District for some 30 years and an elected Commissioner for 27 years. He resigned his position as Commissioner to become a full-time paid fireman; the district had decided to hire a fireman and maintenance man rather than rely solely on volunteers. Claimant worked as a fireman for approximately ten months before resigning due to his limitations: he was having trouble pulling fire hoses, lifting heavy objects, and climbing ladders. While a fireman, Claimant worked approximately 35 hours per week and was paid $14.00 per hour. The job exceeded his work restrictions.

10. In a letter dated December 20, 2000, Waverly J. Ellsworth, Jr., M.D., a retired heart surgeon and neighbor of Claimant's, opined Claimant was a candidate for early retirement.

11. In a letter dated May 1, 2001, Frank J. Cipriano, M.D., opined Claimant was totally and permanently disabled from gainful employment. Dr. Cipriano had been treating him for his orthopedic problems since 1982. This included the surgical repair of Claimant's right shoulder and the left knee arthroplasty. Dr. Cipriano also noted he had documented severe degenerative lumbar disc disease at L4-5, a disc herniation at L5-S1, and impingement and chronic biceps tendon ruptures in Claimant's left shoulder.

12. Claimant has neither worked nor looked for work since resigning his position as a fireman in approximately June 2001.

13. Claimant returned to Dr. Dirks on November 18, 2002, complaining of right and left leg pain. A MRI showed L3-4 and L4-5 disc herniations. On December 17, 2002, Dr. Dirks performed laminotomies and microdiscectomies at both levels. A March 14, 2003, chart note indicated Claimant was doing well, but continued to be disabled.

14. At the request of ISIF, Nancy J. Collins, Ph.D., a vocational rehabilitation counselor,

conducted a vocational assessment of Claimant. Her report is dated July 14, 2003. Ms. Collins, in assessing Claimant's vocational disability, opined his work history was representative of semi-skilled to skilled work and that he was not limited in skill acquisition by his injuries. She further opined Claimant's work history was significant for medium to very heavy work, but that he was now limited to sedentary to medium work. Ms. Collins also opined his transferable skills and physical restrictions allowed him to work in his labor market in either retail sales or as an assistant manager. She opined Claimant would be able to find work in either of these two areas, but that he would only be paid $6.00 to $8.00 per hour, much less than he earned working for Employer.

15. Claimant sought medical care on August 23, 2003, with a three day history of gradually increasing floaters in his right eye. A superior retinal hole associated with lattice degeneration, along with a small amount of vitreous hemorrhage was corrected with argon laser retinopexy by Stephen A. Moss, M.D. There were no complications and no indication in the record that Claimant's eye sight was adversely affected by the condition.

16. Claimant underwent a FCE on January 5, 2004. The FCE showed he could work eight hours a day in a sedentary-light capacity, that he could bend, squat, stair climb and kneel on an infrequent basis, that he stand, walk, reach and balance on an occasional basis, that he could sit constantly, but that he was precluded from climbing ladders, crawling, or lifting from the floor. It was further noted the results were valid, but that Claimant only made a fair effort in the examination, and that he did not plan to return to work.

17. Using the results of the FCE, Dr. Collins provided an update of her report to ISIF. She opined Claimant was personable with customer service skills and a management background in retail sales, that he offered a potential employer supervisory experience and knowledge of sales, and

that he should have access to numerous jobs within his work restrictions. Dr. Collins further opined Claimant's activities of daily living were probably comparable to the physical demands of the retail clerk and sales jobs available to him. She also opined Claimant was not totally and permanently disabled, and that although his labor market was fairly good, he had still suffered a significant loss in earning capacity in the jobs that he is now able to perform.

18. At hearing, Dr. Collins opined Claimant had a good work history in that he would work a significant amount of time for each employer, working his way into positions of greater responsibility, and acquiring skills along the way. She further opined both light and medium work were available to Claimant in the Sandpoint area that were within his work restrictions and for which he possessed the necessary skills to perform when he was laid off by Employer.

DISCUSSION

The provisions of the Workers' Compensation Law are to be liberally construed in favor of the employee. *Haldiman v. American Fine Foods*, 117 Idaho 955, 793 P.2d 187 (1990). The humane purposes which it serves leaves no room for narrow, technical construction. *Ogden v. Thompson*, 128 Idaho 87, 910 P.2d 759 (1996).

1. **Permanent Disability**. "Permanent disability" or "under a permanent disability" results when the actual or presumed ability to engage in gainful activity is reduced or absent because of permanent impairment and no fundamental or marked change in the future can be reasonably expected. Idaho Code § 72-423. "Evaluation (rating) of permanent disability" is an appraisal of the injured employee's present and probable future ability to engage in gainful activity as it is affected by the medical factor of permanent impairment and by pertinent nonmedical factors provided in Idaho Code § 72-430. Idaho Code § 72-425. Idaho Code § 72-430 (1) provides that in determining

percentages of permanent disabilities, account should be taken of the nature of the physical disablement, the disfigurement if of a kind likely to handicap the employee in procuring or holding employment, the cumulative effect of multiple injuries, the occupation of the employee, and his or her age at the time of accident causing the injury, or manifestation of the occupational disease, consideration being given to the diminished ability of the affected employee to compete in an open labor market within a reasonable geographical area considering all the personal and economic circumstances of the employee, and other factors as the Commission may deem relevant, provided that permanent partial or total loss or loss of use of a member or organ of the body no additional benefits shall be payable for disfigurement.

The test for determining whether a claimant has suffered a permanent disability greater than permanent impairment is "whether the physical impairment, taken in conjunction with non-medical factors, has reduced the claimant's capacity for gainful employment." *Graybill v. Swift & Company*, 115 Idaho 293, 294, 766 P.2d 763, 764 (1988). In sum, the focus of a determination of permanent disability is on the claimant's ability to engage in gainful activity. *Sund v. Gambrel*, 127 Idaho 3, 7, 896 P.2d 329, 333 (1995).

There are two methods by which a claimant can demonstrate he or she is totally and permanently disabled. First, a claimant may prove a total and permanent disability if his or her medical impairment together with the pertinent nonmedical factors totals 100%. If the claimant has met this burden, then total and permanent disability has been established. If, however, the claimant has proven something less than 100% disability, he or she can still demonstrate total disability by fitting within the definition of an odd-lot worker. *Boley v. State, Industrial Special Indemnity Fund*, 130 Idaho 278, 281, 939 P.2d 854, 857 (1997). Here, Claimant maintains he is an odd-lot worker.

The odd-lot doctrine, however, only comes into play once a claimant has proven something less than 100% disability. *E.g.*, *Hegel v. Kuhlman Brothers, Inc.*, 115 Idaho 855, 857, 771 P.2d 519, 521 (1989).

A disability rating is contingent upon an impairment rating. Apparently no PPI rating was given Claimant for the surgical procedures performed by Dr. Dirks. Under the criteria listed in Table 15-3 of the AMA *Guides*, he would have a PPI rating of 13% of the whole person. Claimant is at the upper limit of DRE Lumbar Category III; he has a history of disc herniations associated with radiculopathy. This rating would encompass the 5% PPI rating previously given. Therefore, the Referee finds the permanent impairment rating to be considered in Claimant's disability rating is 56% based on adding together the 18% for his right upper extremity, the 15% for his total left knee replacement, the 7% for his left upper extremity, the 3% for his hearing loss, and the 13% for his lumbar spine.

This matter is marked by the amount of time that has elapsed since the 1999 low back injury, the employment as a fireman in 2000-2001, the lumbar surgery in 2002, and the hearing in 2004. Interspaced are diverging opinions from various physicians concerning Claimant's ability to work. What we do have is a 2004 FCE showing Claimant can work in the sedentary-light category for eight hours per day. FCEs are routinely used by physicians to determine permanent work restrictions. In this case, no work restrictions were given after the 2002 surgery. The Referee finds it appropriate in this matter to use the work restrictions contained in the FCE. In addition, we have the 2004 vocational assessment of Dr. Collins, which she updated using the results of the FCE. She opined Claimant was personable, with which the Referee concurs, that he has retail customer service and management skills, supervisory experience and knowledge of sales, and that he had access to

numerous jobs within his work restrictions. Dr. Collins further opined Claimant's activities of daily living were probably comparable to the physical demands of the retail clerk and sales jobs available to him. The downside, in her opinion, was that Claimant would experience a significant loss in earning capacity in the jobs that he was now able to perform. He was no longer capable of performing the medium and heavy labor jobs which mark his work history. The Referee finds the vocational opinions of Dr. Collins persuasive.

Based on Claimant's total impairment rating of 56% of the whole person and his permanent work restrictions, and considering his non-medical factors, including his age, high school education, transferable skills to sedentary-light work, demonstrated ability to learn new job tasks, labor market, and his personal situation, the Referee finds Claimant's ability to engage in gainful activity has been reduced. Thus, the Referee concludes Claimant suffers from a permanent partial disability of 85% of the whole person inclusive of his permanent impairment. Claimant is not 100% totally and permanently disabled.

Claimant can also demonstrate total disability by fitting within the definition of an odd-lot worker. An odd-lot worker is one "so injured that he [or she] can perform no services other than those which are so limited in quality, dependability or quantity that a reasonably stable market for them does not exist." *Bybee v. State, Industrial Special Indemnity Fund*, 129 Idaho 76, 81, 921 P.2d 1200, 1205 (1996). Such workers are not regularly employable "in any well-known branch of the labor market - absent a business boom, the sympathy of a particular employer or friends, temporary good luck, or a superhuman effort on their part." *Carey v. Clearwater County Road Department*, 107 Idaho 109, 112, 686 P.2d 54, 57 (1984). The burden of establishing odd-lot status lies with the claimant who must prove the unavailability of suitable work. *Dumaw v. J. L. Norton Logging*, 118

Idaho 150, 153, 795 P.2d 312, 315 (1990).

A claimant may satisfy his or her burden of proof and establish odd-lot disability status in one of three ways:

1. By showing that he or she has attempted other types of employment without success;
2. By showing that he or she or vocational counselors or employment agencies on his or her behalf have searched for other work and other work is not available; or
3. By showing that any efforts to find suitable work would be futile.

Lethrud v. Industrial Special Indemnity Fund, 126 Idaho 560, 563, 887 P.2d 1067, 1070 (1995).

Claimant asserts his ten month stint working as a fireman shows that he attempted other types of work without success. The job, however, was clearly beyond the work restrictions imposed on him at the time; that was the reason he was unsuccessful. On the other hand, he was able to work as an auctioneer at charity events. Claimant attempted no other work within his restrictions.

Claimant further asserts Consultant Hunter conducted an unsuccessful work search on his behalf. The record shows otherwise. The services of Consultant Hunter ended when Claimant decided to pursue Social Security disability rather than work. There was no work search on the part of Consultant Hunter.

Claimant also asserts any work search would be futile. The 2004 FCE and the vocational opinion of Dr. Collins are to the contrary. Thus, the Referee concludes Claimant has not demonstrated that he is an odd-lot worker under any of the three prongs of the *Lethrud* test. He has not demonstrated the unavailability of suitable work.

2. **ISIF Liability**. Idaho Code § 72-332 (1) provides in pertinent part that if an

employee who has a permanent physical impairment from any cause or origin, incurs a subsequent disability by injury arising out of and in the course of his or her employment, and by reason of the combined effects of both the pre-existing impairment and the subsequent injury suffers total and permanent disability, the employer and its surety will be liable for payment of compensation benefits only for the disability caused by the injury, and the injured employee shall be compensated for the remainder of his or her income benefits out of the ISIF account.

Idaho Code § 72-332 (2) further provides that "permanent physical impairment" is as defined in Idaho Code § 72-422, provided, however, as used in this section such impairment must be a permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining re-employment if the claimant should become employed. This shall be interpreted subjectively as to the particular employee involved, however, the mere fact that a claimant is employed at the time of the subsequent injury shall not create a presumption that the pre-existing physical impairment was not of such seriousness as to constitute such hindrance or obstacle to obtaining employment.

In *Dumaw v. J. L. Norton Logging*, 118 Idaho 150, 795 P.2d 312 (1990), the Idaho Supreme Court set forth four requirements a claimant must meet in order to establish ISIF liability under Idaho Code § 72-332:

(1) Whether there was indeed a pre-existing impairment;

(2) Whether that impairment was manifest;

(3) Whether the alleged impairment was a subjective hindrance; and

(4) Whether the alleged impairment in any way combines in causing total disability.

Dumaw, 118 Idaho at 155, 795 P.2d at 317.

To satisfy the "combines" or fourth element, the test is whether, but for the industrial injury, the worker would have been totally and permanently disabled immediately following the occurrence of that injury. *Bybee v. State, Industrial Special Indemnity Fund*, 129 Idaho 76, 81, 921 P.2d 1200, 1205 (1996). Assuming all prior requirements have been met, Claimant cannot meet the fourth element of the *Dumaw* test. The 1999 or last injury did not immediately render him totally and permanently disabled because he later went to work as a fireman. Thus, the Referee concludes ISIF is not liable to Claimant under Idaho Code § 72-332.

3. **Apportionment under *Carey*.** Based on the conclusions set forth above, the Referee further concludes any apportionment under the formula set forth by the Idaho Supreme Court in *Carey v. Clearwater County Road Department*, 107 Idaho 109, 686 P.2d 54 (1984) is moot.

CONCLUSIONS OF LAW

1. Claimant suffers from a permanent partial disability of 85% of the whole person inclusive of his permanent impairment. He is not 100% totally and permanently disabled.

2. Claimant is not totally and permanently disabled under the "odd-lot" doctrine.

3. ISIF is not liable to Claimant under Idaho Code § 72-332.

4. The question of apportionment under the *Carey* formula is moot.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Referee recommends the Commission adopt such findings and conclusions as its own, and issue an appropriate final order.

DATED This 10th day of December, 2004.

INDUSTRIAL COMMISSION

/s/_____
Robert D. Barclay
Chief Referee

ATTEST:

/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the __29th_ day of _December_____, 2004, a true and correct copy of **Findings of Fact, Conclusions of Law, and Recommendation** was served by regular United States Mail upon each of the following:

THOMAS B AMBERSON
WHITEHEAD AMBERSON & CALDWELL, PLLC
PO BOX 1319
COEUR D'ALENE ID 83816-1319

THOMAS W CALLERY
JONES BROWER & HIGH, PLLC
PO BOX 854
LEWISTON ID 83501-0854

kkr /s/_____